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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/547,680	09/02/2005	Heinrich Hanisch	01873.200014.	9000
5514 7590 05/06/2010 FITZPATRICK CELLA HARPER & SCINTO 1290 Avenue of the Americas NEW YORK, NY 10104-3800				
EXAMINER				
EIDE, HEIDI MARIE				
ART UNIT		PAPER NUMBER		
3732				
MAIL DATE		DELIVERY MODE		
05/06/2010		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/547,680

**Applicant(s)**

HANISCH ET AL

**Examiner**

HEIDI M. EIDE

**Art Unit**

3732

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 April 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 29-48 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 29-48 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/CD)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on March 17, 2010 has been entered.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 29-32, 34-37, 39-42 and 44-48 are rejected under 35 U.S.C. 102(b) as being anticipated by Baba 6,049,743.

Baba teaches a computer aided design system comprising a computer 1, a display device 7a that is directed by the computer to display an image of a dental restoration body, the dental restoration body including a plurality of distinct dentally specific indicia (deforming regions  $A_{(n)}$ ), each indicium in the plurality relating to a different dental feature (i.e. each deforming region has a different cuspid apex, a

different section of the marginal ridge, a different cuspid ridge, etc.) an input device 8a that enables the user to input a command to reference any of the plurality of distinct dentally specific indicia to select a portion of the image to be modified, the selected portion being defined by at least the plurality of dentally specific indicia and at least one design tool that enables the user to modify the selected portion in any of a plurality of directions (col. 4, ll. 44-50, col. 7, ll. 14-18, 23-25, col. 8, ll. 7-11, col. 9, ll. 41-56). Baba further teaches wherein the plurality of dentally specific indicia comprises a plurality of dentally specific lines (i.e. the lines defining the deforming regions) and wherein the plurality of distinct dentally specific indicia comprises a plurality of dentally specific points (i.e. each deforming comprising the center position CP, col. 9, ll. 41-56), wherein the selection is made by selecting a region between at least two of the plurality of distinct dentally specific indicia (i.e. the selected deforming region is located between different deforming regions or distinct dentally specific indicia) and wherein the image of the dental restoration body further includes a preparation border (ml). Baba further teaches wherein the selection is made by selecting a region between the preparation border and at least one of the plurality of distinct dentally specific indicia (the selected point as illustrated in fig. 11 is between the preparation border Pm(6) and other deforming regions) and wherein the plurality of distinct dentally specific indicia includes a cusp 11 (fig. 5). As to claim 39, Baba teaches the method comprising providing an image of a dental restoration body, the image of the dental restoration body including a plurality of distinct dentally specific indicia (deforming regions  $A_{(n)}$ ), accepting an input command to reference any of the plurality of distinct dentally specific indicia to select a

portion of the image to be modified, the selected portion being defined by at least the dentally specific indicia reference by the command and modifying the selected portion with a design tool, the design tool enabling the selected portion to be modified in any of a plurality of directions (col. 4, ll. 44-50, col. 7, ll. 14-18, 23-25, col. 8, ll. 7-11, col. 9, ll. 41-56).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 38 is rejected under 35 U.S.C. 103(a) as being unpatentable over Baba 6,049,743 as applied to claim 29 above, and further in view of Diller 2002/0110786.

Baba teaches the invention as substantially claimed and as discussed above, however, does not specifically teach the computer directs the display device to display a plurality of symbols, each of the plurality of symbols representing a design tool.

Diller teaches the computer directs the display device to display a plurality of symbols, each of the plurality of symbols representing a design tool (par. 114, figs. 24-25). It would have been obvious to one having ordinary skill in the art in the time of the invention to modify the computer system taught by Baba with the design tool display taught by Diller in order for the user to easily modify the shape of the restoration as needed.

### ***Response to Arguments***

Applicant's arguments filed April 13, 2010 have been fully considered but they are not persuasive. Applicant argues that the amendment adding the limitation that each of the indicium is different overcomes the prior art of record, however, as discussed in the above, rejection, the prior art does teaches each indicium is different. Each of the plurality of distinct dental specific indicia A(n) includes a different cuspid apex, a different section of the marginal line, a different cuspid apex, etc.

It is suggested that the applicant add limitations to the claims to includes how the plurality of distinct dentally specific indicia are different with respect to each other to overcome the prior art of record.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HEIDI M. EIDE whose telephone number is (571)270-3081. The examiner can normally be reached on Mon-Thurs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cris Rodriguez can be reached on 571-272-4964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Heidi M Eide/

Examiner, Art Unit 3732

5/3/2010

/Cris L. Rodriguez/

Supervisory Patent Examiner, Art Unit 3732